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FISCAL IMPACT STATEMENT

LS 6460

BILL NUMBER: SB 458

NOTE PREPARED: Dec 2, 2003

BILL AMENDED:

SUBJECT: Discrimination Based on Sexual Orientation.

FIRST AUTHOR: Sen. Howard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill extends anti-discrimination statutes to include prohibiting discrimination based on sexual orientation and gender identity throughout the Indiana Code.

Effective Date: July 1, 2004.

Explanation of State Expenditures: The bill will prohibit state agencies from discriminating against current and prospective employees based on sexual orientation or gender identity. Given the state's current hiring procedures, the provision is not expected to have a significant administrative impact.

Civil Rights Commission: The bill adds sexual orientation and gender identity to the types of discrimination claims undertaken by the state's Civil Rights Commission. The Civil Rights Commission may investigate discrimination claims, award back wages, and institute administrative changes within an offending entity. Expanding the jurisdiction of the Civil Rights Commission to include discrimination based on sexual orientation and gender identity will likely increase the Commission's workload. The proposal's ultimate impact on the Commission will depend on the number of cases initiated at the Commission.

Any funds and resources required by the Commission could be supplied through a variety of sources, including: (1) existing resources not currently being used to capacity; (2) funds that, otherwise, would be reverted; or (3) new appropriations. As of November 24, 2003, there were 14 personnel vacancies within the Commission. Additionally, the Commission reverted \$374,481 in FY 2003. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. This bill does not contain an appropriation.

As a point of reference, the U.S. General Accounting Office (GAO) studied employment complaints filed in 2001 in the 13 states (including Washington D.C.) that have statutory prohibitions against employment discrimination based on sexual orientation. The GAO's analysis showed that sexual orientation cases represented, on average, about 3.0% of the total employment discrimination cases filed in each of the states.

Explanation of State Revenues: *Penalty Provision:* The bill makes it a Class B misdemeanor to intentionally deny the full and equal use of services to a person based on the person's sexual orientation or gender identity. The bill also makes it a Class A misdemeanor to exclude a person from housing opportunities, jury selection, and based on the person's sexual orientation or gender identity. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: The bill prohibits township trustees, schools and universities, and county- and city-run medical facilities from discriminating based on sexual orientation or gender identity. This provision is not expected to have a significant fiscal impact.

Penalty Provision: A Class B misdemeanor is punishable by up to 180 days in jail. A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: All; Civil Right's Commission.

Local Agencies Affected: All; Trial courts, local law enforcement agencies.

Information Sources: *Sexual Orientation-Based Employment Discrimination: States' Experience with Statutory Prohibitions*, U.S. General Accounting Office, 2002.

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